

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRYAN MCCROY,

Defendant.

8:08CR321

ORDER

This matter is before the Court on the Defendant's notice of appeal (Filing No. 124), the Clerk's memoranda regarding the untimeliness of the notice (Filing No. 125) and in forma pauperis status (Filing No. 126).

On September 14, 2012, the Court entered a memorandum and order denying the Defendant's motion for a reduced sentence under the Fair Sentencing Act (Filing No. 122). On October 12, 2012, the Defendant filed his notice of appeal (Filing No. 124).

Federal Appellate Rule of Procedure 4(b)(1)(A)(i) provides that, under the circumstances presented in this case, a criminal defendant's notice of appeal must be filed within 14 days of the entry of the judgment or order being appealed. Federal Appellate Rule of Procedure 4(b)(4) provides that the 14-day period may be extended by 30 days upon a finding of excusable neglect or good cause.

In this case, the notice of appeal is untimely. The Defendant has not shown excusable neglect or good cause. Accordingly, the Defendant will not be permitted to proceed in forma pauperis on appeal.

IT IS ORDERED:

1. The Defendant's notice of appeal (Filing No. 124) is untimely;
2. The Defendant may not proceed in forma pauperis on appeal; and
3. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

Dated this 18th day of October, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge